

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEON REED,

Petitioner,

v.

NEVADA ATTORNEY GENERAL,

Respondents.

Case No. 3:24-cv-00319-ART-CLB

ORDER

Petitioner Keon Reed commenced this habeas action by filing a Petition for Writ of Habeas Corpus (ECF No. 1-1). This habeas matter is before the Court for initial review under the Rules Governing Section 2254 Cases,¹ as well as consideration of Reed’s Motions for Appointment of Counsel (ECF Nos. 1-2, 3).

Pursuant to Habeas Rule 4, the assigned judge must examine the habeas petition and order a response unless it “plainly appears” that the petitioner is not entitled to relief. *See Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019). This rule allows courts to screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by procedural defects. *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases).

Reed pled guilty to eleven counts of robbery and related offenses in the Second Judicial District Court. The state court sentenced him as a habitual criminal to a term of ten years to life. Reed served seventeen years in the Nevada Department of Corrections, and although he “remains on lifetime parole,” he is currently in federal custody in Florida. Reed’s petition indicates that he has not

¹ All references to a “Habeas Rule” or the “Habeas Rules” in this order identify the Rules Governing Section 2254 Cases in the United States District Courts.

1 appealed his conviction or filed a state post-conviction habeas petition.

2 Turning to Reed's motions for appointment of counsel (ECF Nos. 1-2, 3) to
3 assist him in this habeas action, there is no constitutional right to appointed
4 counsel in a federal habeas corpus proceeding. *See Luna v. Kernan*, 784 F.3d
5 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336-37 (2007)).
6 However, an indigent petitioner may request appointed counsel to pursue that
7 relief. *See* 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is generally
8 discretionary. *Id.* (authorizing appointment of counsel "when the interests of
9 justice so require"). But counsel must be appointed if the complexities of the case
10 are such that denial of counsel would amount to a denial of due process, and
11 where the petitioner is so uneducated that he or she is incapable of fairly
12 presenting his or her claims. *See La Mere v. Risley*, 827 F.2d 622, 626 (9th Cir.
13 1987); *Brown v. United States*, 623 F.2d 54, 61 (9th Cir. 1980).

14 The Court finds that appointment of counsel in this case is in the interests
15 of justice, given, among other things, the complexity of Reed's claims, that his
16 petition may raise relatively complex issues, including exhaustion, and it is
17 unclear whether he will be able to adequately articulate his claims in proper
18 person with the resources available to him. Therefore, Reed's motions for
19 appointment of counsel are granted and the Court will provisionally appoint the
20 Federal Public Defender to represent him.

21 **IT THEREFORE IS ORDERED:**

- 22 1. Petitioner Keon Reed's Motions for Appointment of Counsel (ECF Nos.
23 1-2, 3) are granted.
- 24 2. The Federal Public Defender is provisionally appointed as counsel and
25 will have 30 days to undertake direct representation of Petitioner or to
26 indicate the office's inability to represent Petitioner in these proceedings.
27 If the Federal Public Defender is unable to represent Petitioner, the
28 Court will appoint alternate counsel. The counsel appointed will

1 represent Petitioner in all federal proceedings related to this matter,
2 including any appeals or certiorari proceedings, unless allowed to
3 withdraw. A deadline for the filing of an amended petition and/or
4 seeking other relief will be set after counsel has entered an appearance.
5 The Court anticipates a deadline of approximately 60 days from entry of
6 the formal order of appointment.

7 3. Any deadline established and/or any extension thereof will not signify
8 any implied finding of a basis for tolling during the time period
9 established. Petitioner at all times remains responsible for calculating
10 the running of the federal limitation period and timely presenting
11 claims. That is, by setting a deadline to amend the petition and/or by
12 granting any extension thereof, the Court makes no finding or
13 representation that the petition, any amendments thereto, and/or any
14 claims contained therein are not subject to dismissal as untimely. *See*
15 *Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir. 2013).

16 4. The Clerk of the Court will file Petitioner's Petition for Writ of Habeas
17 Corpus (ECF No. 1-1).

18 5. The Clerk of Court is directed to add Nevada Attorney General Aaron D.
19 Ford as counsel for Respondents and to provide Respondents an
20 electronic copy of all items previously filed in this case by regenerating
21 the Notice of Electronic Filing to the office of the AG only. Respondents'
22 counsel must enter a notice of appearance within 21 days of entry of
23 this order, but no further response will be required from Respondents
24 until further order of the Court.

25 6. The Clerk of Court is further directed to send a copy of this order to the

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DATED THIS 30th day of August, 2024.

Anne Russell Rine

ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE